

**MURFREESBORO CITY COUNCIL**  
**Regular Meeting Agenda**  
**Murfreesboro Police Headquarters – Community Room – 11:30 AM**  
**September 11, 2019**

**New Business**

Workshop Items

1. Approval of Tax Incentive Financing proposal for One East College, LLC development (Administration)
  - a. Resolution 19-R-19: Economic Development Plan for One East College Street Historic Development Area
2. Approval of additional costs for emergency repairs to 54' sewer line (Water Resources)
3. Discussion of proposed sewer capacity allocation ordinance and resolution (Water Recourses)
4. Brush Limb curbside Collection Bid Review (Water Resources)
5. Economic Development Program Update (Administration)

**Licensing**

**Payment of Statements**

**Other Business**

**Adjournment**

# COUNCIL COMMUNICATION

Meeting Date: 09/11/2019

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**Item Title:** Economic Impact Plan/TIF Incentive for East College Street Development

**Department:** Administration

**Presented by:** Gary Whitaker, Assistant City Manager

**Requested Council Action:**

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

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## Summary

Approval of Tax-Increment Financing (TIF) Incentive to reimburse One East College, LLC for the cost of public infrastructure improvements, including a new public parking garage, to be incorporated as part of One East College's mixed-use redevelopment project.

## Staff Recommendation

Adopt Resolution 19-R-19 approving Economic Impact Plan and TIF Incentive to facilitate Mixed-Use Development by One East College.

## Background Information

On December 6, 2019, the City entered into a purchase and sale agreement with One East College for the city block bound by Lytle Street, Spring Street, College Street, and Church Street. At the same time, the City also entered into a mixed-use development agreement with One East College setting the obligations for construction of a mixed-use development. This development will include commercial office, retail, restaurant, residential and hotel uses, together with a parking garage serving the development and open to the public. On June 28, 2019, title to the property was transferred to One East College.

The mixed-use development agreement is contingent upon TIF funding for the parking garage. The TIF was approved by the Industrial Development Board of Rutherford County (IDB) on August 28, 2019. Under the TIF's Economic Development Plan (attached as Exhibit A to the Resolution), the City's contribution is approximately \$1.1158 per \$100 of assessed value of the developed property during the TIF's term. Property tax is collected and rebated to One East College to reimburse a portion of the cost of constructing the garage and other public infrastructure. The TIF Incentive program is capped at \$6 million and expires 15 years after the first incentive payment.

## **Council Priorities Served**

### *Strong and Sustainable Financial and Economic Health*

Redevelopment of the site is a vital step in revitalize downtown Murfreesboro. The development proposed by One East College adds significant commercial, retail, and residential properties to the downtown area. The increased assessed value of the site enhances the City and County's future property tax revenues, and the new commercial and retail establishments will generate local sales tax and hotel tax revenue. Additionally, the new development has the potential to spur further redevelopment thus contributing indirectly to the financial and economic health of the community.

## **Fiscal Impacts**

Projections of County Assessor estimate the new development will generate nearly \$220,000 in property tax revenue for the City and approximately \$375,000 in property tax revenue for the County each year. During the term of the TIF Incentive, approximately \$530,000 per year will be rebated to One East College to reimburse for the cost of public infrastructure improvements and the new public parking garage. Upon the expiration of the TIF, the City and County will collect the full amount of the property tax assessment.

In addition to the additional property tax revenue, it is estimated that the development will generate more than \$1.8 million per year in sales and hotel tax. These taxes are not included in the TIF Incentive program but will be retained by the City and County.

## **Operational Issues**

N/A

## **Attachments:**

Resolution 19-R-19 (including IDB Resolution and Economic Development Plant attached thereto as Exhibit A)

**RESOLUTION 19-R-19** regarding Economic Impact Plan for East  
College Street Historic Development Area.

**WHEREAS**, The Industrial Development Board of Rutherford County (the “Board”), is a public, nonprofit corporation organized and existing under, and by virtue of, the provisions of Chapter 53, Title 7, Tennessee Code Annotated, as amended (the “Act”); and

**WHEREAS**, the purpose of said Act, as stated therein, being to authorize the incorporation in the several municipalities in the State of Tennessee of public corporations to finance, acquire, construct, own, lease, equip and/or dispose of properties to the end that such corporations may be able to, among other things, maintain and increase employment opportunities by promoting industry, trade, commerce, tourism, and recreation by inducing manufacturing, industrial, governmental, educational, financial service, commercial, and recreational enterprises to locate or to remain in the State of Tennessee; and

**WHEREAS**, the Board desires to induce One East College, LLC (the “Company”), to undertake a development (the “Development”), which will include commercial office, retail, restaurant, residential and hotel uses, together with a privately-owned, off-site parking garage facility that will serve both the users of the Development and the public (the “Garage Project”), which Garage Project is anticipated to be composed of a 3 ½ - story garage with approximately 505 parking spaces; and

**WHEREAS**, the Garage Project is an eligible project within the meaning of T.C.A. § 7-53-101(15)(A); and

**WHEREAS**, the Board is authorized by the Act to, among other things, prepare and submit to the City and to the Board of Commissioners of Rutherford County, Tennessee (the “County”), for their approval, an economic impact plan pursuant to Section 312 of the Act; and

**WHEREAS**, on August 28, 2019, the Board held a public hearing relating to the proposed “The Industrial Development Board of Rutherford County – East College Street Historic Development Area” (the “Plan”), attached hereto as Exhibit A and incorporated herein by reference, and approved the Plan pursuant to which the Board would receive certain property taxes allocated to the Board pursuant to Section 312(h) of the Act and the Plan (the “Available Increment”) and use the same for an incentive (the “Incentive”) to the Company, by using the Available Increment either to (i) pay (or reimburse the Company for paying) a portion of the Eligible Costs (such term, and all other terms the initial letter of which are capitalized and is not otherwise defined herein shall have the meaning ascribed thereto in the Plan) of the Garage Project, or to (ii) provide financial assistance to fund a portion of the Eligible Costs of the Garage Project by borrowing money under a nonrecourse note, and

providing the proceeds thereof to the Company to reimburse it for Eligible Costs of the Garage Project; and

**WHEREAS**, the Board is authorized by law and has deemed it necessary to provide the Incentive pursuant to the terms of a certain Funding Agreement (the “Funding Agreement”), to be entered into with the Company, which Funding Agreement shall be subject to the approval of the City Manager and the City Attorney; and

**WHEREAS**, the City has been asked to approve the Plan and the Incentive to the Company.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:**

SECTION 1. Findings with Respect to the Project. The City Council of the City of Murfreesboro, Tennessee, hereby finds with respect to the Project that the acquisition, construction and equipping thereof by means of the Incentive is necessary and desirable; that the Plan Area is within an area that could provide substantial sources of tax revenues or economic activity to the City and the County; that the use of the Incentive is in furtherance of promoting economic development in the City and the County; that the use of the Incentive will develop trade and commerce in and adjacent to the City and the County, will contribute to the general welfare, and will alleviate conditions of unemployment; and that the Project will be necessary and advantageous to the Board in furthering the purposes of the Act.

SECTION 2. Approval of the Incentive and the Plan. The form, content, and provisions of the Plan, and the grant of the Incentive as contemplated herein, in the Funding Agreement and in said Plan are hereby in all particulars approved; and the Mayor, or in the Mayor’s absence, the Vice Mayor, is hereby authorized, empowered and directed to execute, acknowledge and deliver said Plan, in substantially the form now before this meeting of the City Council, or with such changes therein as shall be approved by the Mayor or Vice Mayor executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes or revisions, in the name, and on behalf, of the City.

The Mayor or in the Mayor’s absence, the Vice Mayor, is hereby authorized, empowered, and directed, from and after the date hereof, to do all acts and things, and to execute all documents with the Company, the Board and/or the City as may be necessary or convenient to carry out, and to comply with the provisions of said Economic Impact Plan.

SECTION 3. Miscellaneous Acts. The Mayor, the Vice Mayor, the City Manager, the City Attorney, the City Recorder, the Treasurer, and the Director of Finance or any of them, are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable

file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, memoranda and certifications, certifications hereinbefore authorized and approved, as may, in his or her discretion, be necessary or desirable to implement or comply with the intent of this Resolution, or any of the documents herein authorized and approved, or for the granting and implementation of the Incentive or the undertaking of the Project by the Company for the foregoing purposes, including without limitation, the execution, delivery and recordation of any memoranda, certificates or other documents or instruments as they may deem necessary or desirable in connection with the foregoing.

SECTION 4. Limited Obligation and Liability. The obligations of the Board under the Plan and the Funding Agreement (the “Obligations”), and any payments with respect thereto, are limited obligations of the Board and shall not be deemed to constitute a general debt or liability of the Board, except insofar as the applicable portions of the Available Increment has been received by the Board and the same is payable to the Company in accordance with the provisions of the Plan and in the Funding Agreement referenced therein.

Neither the City, the County, the State of Tennessee, nor any other political subdivision thereof, shall be liable for the payment or performance of the Obligations or any agreement, or certification, of any kind whatsoever of the Board and neither the Obligations, nor any of the agreements, Obligations, or certifications of the Board shall be construed to constitute an indebtedness of the City, the County or the State of Tennessee, or any other political subdivision thereof, within the meaning of any constitutional or statutory provisions whatsoever. No recourse under, or upon any statement, obligation, covenant, agreement, or certification, contained in any of the foregoing documents, or any other document or certification whatsoever; or under any judgment obtained against the Board or by the enforcement of any assessment or by any legal or equitable proceeding or by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the foregoing documents, or any other document or certification, whatsoever, shall be had against any incorporator, member, director, or officer, as such, past, present, or future, of the Board, either directly or through the Board, or otherwise, for the payment for, or to, the Board, or any receiver thereof, for any sum that may be due and unpaid by the Board for the Obligations. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for, or to, the Board or any receiver thereof, shall be deemed to have been waived and released as a condition of, and consideration for, the execution of the aforesaid documents.

SECTION 5. Captions. The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

SECTION 6. Partial Invalidity. If any one or more of the provisions of this Resolution, or of any exhibit or attachment thereof, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution, and the exhibits and attachments thereof, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

SECTION 7. This Resolution shall be effective immediately, the public welfare and the welfare of the City requiring it.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Melissa B. Wright  
City Recorder

\_\_\_\_\_  
Adam F. Tucker  
City Attorney

**RESOLUTION REGARDING ECONOMIC IMPACT PLAN  
AMONG OTHER THINGS**

Resolution of the Board of Directors of The Industrial Development Board of Rutherford County (the “**Board**”), authorizing and approving the submission of an economic impact plan to the City Council of the City of Murfreesboro, Tennessee (the “**City**”) and the Board of Commissioners of Rutherford County, Tennessee (the “**County**”).

**WHEREAS**, the Board is a public, nonprofit corporation organized and existing under, and by virtue of, the provisions of Chapter 53, Title 7, Tennessee Code Annotated, as amended (the “**Act**”); and

**WHEREAS**, the purpose of said Act, as stated therein, being to authorize the incorporation in the several municipalities in the State of Tennessee of public corporations to finance, acquire, construct, own, lease, equip and/or dispose of properties to the end that such corporations may be able to, among other things, maintain and increase employment opportunities by promoting industry, trade, commerce, tourism, and recreation by inducing manufacturing, industrial, governmental, educational, financial service, commercial, and recreational enterprises to locate or to remain in the State of Tennessee; and

**WHEREAS**, the Board desires to induce One East College, LLC (the “**Company**”) to undertake a development (the “Development”), which will include commercial office, retail, restaurant, residential and hotel uses, together with a privately-owned, off-site parking garage facility that will serve both the users of the Development and the public (the “Garage Project”), which Garage Project is anticipated to be composed of a 3 ½ - story garage with approximately 505 parking spaces, and is being constructed in the Plan Area as defined in the “The Industrial Development Board of Rutherford County – Economic Impact Plan for East College Street Historic Development Area” (the “**Plan**”), attached hereto as **Exhibit A** and incorporated herein by reference; and

**WHEREAS**, the Garage Project is an eligible project within the meaning of T.C.A. § 7-53-101(15)(A); and

**WHEREAS**, the Board desires to approve the Plan pursuant to which the Board would receive certain property taxes allocated to the Board pursuant to Section 312(h) of the Act and the Plan (the “**Available Increment**”) and use the same for an incentive (the “**Incentive**”) to the Company, by using the Available Increment either to (i) pay (or reimburse the Company for paying) a portion of the Eligible Costs (such term, and all other terms the initial letter of which are capitalized and is not otherwise defined herein shall have the meaning ascribed thereto in the Plan) of the Garage Project, or to (ii) provide financial assistance to fund a portion of the Eligible Costs of the Garage Project by borrowing money under a nonrecourse note, and providing the proceeds thereof to the Company to reimburse it for Eligible Costs of the Garage Project; and

**WHEREAS**, the Board is authorized by the Act to, among other things, prepare and submit to the City and the County, for their approval, an economic impact plan pursuant to Section 312 of the Act; and



**WHEREAS**, the Board is authorized by law and has deemed it necessary to provide the Incentive pursuant to the terms of a certain Funding Agreement (the "**Funding Agreement**"), to be entered into with the Company, a copy of which has been presented at this meeting of the Board; and

**WHEREAS**, the proposed form of the Plan and the Funding Agreement have been presented to the Board for consideration and approval.

NOW, THEREFORE, the Board having held a public hearing relating to the proposed Plan after publishing notice of such hearing in a newspaper of general circulation in the City and the County at least two (2) weeks prior to the date of the public hearing, which notice included the time, place and purpose of the hearing as well as notice of how a map of the subject area may be viewed by the public, be it resolved by The Industrial Development Board of Rutherford County, as follows:

**Section 1. Findings with Respect to the Project.** The Board hereby finds that the use of the Incentive to fund the Eligible Costs of the Project is necessary and desirable; that the Plan Area is within an area that could provide substantial sources of tax revenues or economic activity to the City and the County; that the use of the Incentive is in furtherance of promoting economic development in the City and the County; that the use of the Incentive will develop trade and commerce in and adjacent to the City and the County, will contribute to the general welfare, and will alleviate conditions of unemployment; and that the Project will be necessary and advantageous to the Board in furthering the purposes of the Act.

**Section 2. Approval of the Incentive and the Plan.** The form, content, and provisions of the Plan, as presented to this meeting of the Board of Directors, and the grant of the Incentive as contemplated herein, in the Funding Agreement and in said Plan, are hereby in all particulars approved; and the Chairman and the Vice Chairman, or either of them, and if requested, the Secretary or the Assistant Secretary of the Board, or either of them, are hereby authorized, empowered and directed to execute, acknowledge and deliver to the City and the County for its consideration and approval said Plan, in substantially the form now before this meeting of the Board of Directors, or with such changes therein as shall be approved by the officer(s) of the Board executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all such changes or revisions, in the name, and on behalf, of the Board.

The officers of the Board are hereby authorized, empowered, and directed, from and after the date hereof, to do all acts and things, and to execute all documents with the Company and the County as may be necessary or convenient to carry out, and to comply with the provisions of said Plan.

**Section 3. Funding Agreement.** The general form, content, and provisions of the Funding Agreement, as presented to this meeting of the Board of Directors, is hereby in all particulars approved; and the Chairman and the Vice Chairman, or either of them, and if requested, the Secretary or the Assistant Secretary of the Board are hereby authorized, empowered and directed to execute, acknowledge and deliver said Funding Agreement, in substantially the form now before this meeting of the Board of Directors, or with such changes therein as shall be approved by the officers of the Board executing the same, their execution

thereof to constitute conclusive evidence of their approval of any and all such changes or revisions, in the name, and on behalf, of the Board.

The officers of the Board are hereby authorized, empowered, and directed, from and after the date hereof, to do all acts and things, and to execute all documents with the Company and the County as may be necessary or convenient to carry out, and to comply with the provisions of said Funding Agreement.

**Section 4. Miscellaneous Acts.** The appropriate officers of the Board are hereby authorized, empowered, and directed to do any and all such acts and things, and to execute, acknowledge, deliver, and, if applicable file or record, or cause to be filed or recorded, in any appropriate public offices, all such documents, instruments, memoranda and certifications, certifications hereinbefore authorized and approved, as may, in their discretion, be necessary or desirable to implement or comply with the intent of this Resolution, or any of the documents herein authorized and approved, or for the granting and implementation of the Incentive or the undertaking of the Project by the Company for the foregoing purposes, including without limitation, the execution, delivery and recordation of any memoranda, certificates or other documents or instruments as they may deem necessary or desirable in connection with the foregoing.

**Section 5. Limited Obligation and Liability.** The obligations of the Board under the Plan and the Funding Agreement (the "**Obligations**"), and any payments with respect thereto, are limited obligations of the Board and shall not be deemed to constitute a general debt or liability of the Board, except insofar as the applicable portion of the Available Increment has been received by the Board, the same shall be deposited by the Board in accordance with the provisions of the Plan and in the Funding Agreement referenced therein.

Neither the City, the County, the State of Tennessee, nor any other political subdivision thereof, shall be liable for the payment or performance of the Obligations or any agreement, or certification, of any kind whatsoever of the Board and neither the Obligations, nor any of the agreements, Obligations, or certifications of the Board shall be construed to constitute an indebtedness of the City, the County or the State of Tennessee, or any other political subdivision thereof, within the meaning of any constitutional or statutory provisions whatsoever.

No recourse under, or upon any statement, obligation, covenant, agreement, or certification, contained in any of the foregoing documents, or any other document or certification whatsoever; or under any judgment obtained against the Board or by the enforcement of any assessment or by any legal or equitable proceeding or by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the foregoing documents, or any other document or certification, whatsoever, shall be had against any incorporator, member, director, or officer, as such, past, present, or future, of the Board, either directly or through the Board, or otherwise, for the payment for, or to, the Board, or any receiver thereof, for any sum that may be due and unpaid by the Board for the Obligations. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for, or to, the Board or any receiver thereof, shall be deemed to have been waived and released as a condition of, and consideration for, the execution of the aforesaid documents.

**Section 6. Captions.** The captions or headings in this Resolution are for convenience only and shall in no way define, limit, or describe the scope or intent of any provision hereof.

**Section 7. Partial Invalidity.** If any one or more of the provisions of this Resolution, or of any exhibit or attachment thereof, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Resolution, and the exhibits and attachments thereof, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Approved and adopted this 28<sup>th</sup> day of August 2018.

ATTEST:

  
Secretary

(SEAL)

**THE INDUSTRIAL DEVELOPMENT  
BOARD OF RUTHERFORD COUNTY**

By: 

Name: William Jones

Title: Chairman

## **EXHIBIT A**

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF RUTHERFORD COUNTY**

Economic Impact Plan for  
East College Street Historic Development Area  
August 28, 2019

**1. Authority**

(a) Industrial development corporations are authorized under T.C.A. § 7-53-312 to prepare and submit to cities and counties an economic impact plan with respect to an area that includes a project within the meaning of T.C.A. § 7-53-101 and such other properties that the corporation determines will be directly improved or benefited due to the undertaking of a project.

(b) T.C.A. § 7-53-312 authorizes cities and counties to allocate new incremental tax revenues, which arise from the area subject to the economic impact plan, to an industrial development corporation to promote economic development, to pay the cost of projects, or to pay debt service on bonds or other obligations issued by the corporation.

**2. The Development and Project**

(a) Development. The City of Murfreesboro (the "City"), with the support of Rutherford County (the "County"), intends to support the development of the East College Street Historic Development Area in a mixed-use development project (the "Development"), consistent with the Development Agreement described below. The Development will include commercial office, retail, restaurant, residential and hotel uses, together with a privately-owned, off-site parking garage facility that will serve both the users of the Development and the public (the "Garage Project"). The Garage Project is anticipated to be composed of a 3 ½ - story garage with approximately 505 parking spaces. The cost of the Garage Project portion of the Development will be subject to reimbursement as set forth herein. The Development will also preserve and incorporate the sanctuary and bell tower of the old First Methodist Church located at the northeast corner of North Church and East College streets.

(b) Developer. The developer of the Development will be One East College, LLC ("Developer"). Developer will incur all costs associated with the design, construction, and marketing of the Development in accordance with a certain Mixed-Use Development Agreement, dated December 6, 2018 (said agreement, as amended from time to time, being the "Development Agreement"), by and between Developer and the City, which Development Agreement is incorporated herein by reference.

(c) The Plan. The Industrial Development Board of Rutherford County (the "Board") desires to adopt this economic impact plan (the "Plan."), in order to induce the Developer to undertake the Development and to make the Garage Project financially feasible. Upon its adoption, the Board will submit this Plan to the City and

County for their approval. The Garage Project is an eligible project within the meaning of T.C.A. § 7-53-101(15)(A).

### **3. Plan Area**

(a) The Garage Project's location in the downtown area of the City is located on a site that encompasses an entire city block. That block is bound by Lytle Street to the north, Spring Street to the east, College Street to the south, and Church Street to the west (the "Plan Area"), which the Board hereby agrees and determines is the property that will directly benefit from the development of the Project.

(b) The map of the Plan Area, consisting of approximately 2.5 acres, is shown on **Exhibit A** attached hereto. A Tax Map and Parcel numbers of the real property in the Plan Area are Tax Map: 91K Group "G" Parcels 8.00, 8.01 and 9.0.

(c) Upon adoption of this Plan, the Plan Area is hereby declared to be subject to this Plan.

### **4. Expected Benefits to City and the County**

(a) The Garage Project is expected to promote economic development in the downtown area by providing well-located, safe parking facilities thereby inducing the occurrence of the Development, leading to the redevelopment of the Plan Area by adding commercial office, retail, restaurant, residential, hotel and parking opportunities that will draw residents and tourists to downtown Murfreesboro. It is anticipated that the Development will become a catalyst for further redevelopment of the surrounding areas downtown.

(b) As Murfreesboro is the largest City in Rutherford County and is the county seat, this revitalization will directly benefit the County and the City.

(c) It is also expected that the Development, including the Garage Project, will accelerate the timing of the improvement of downtown Murfreesboro relative to development that might have occurred without the Garage Project. These activities will be a major catalyst in returning the area to a prominent role in the civic, economic, and cultural life of the City and the County, providing a center-City gathering place for people to park, work, live, shop and dine in a metropolitan setting.

(d) The Development will entail approximately \$65,000,000 to \$70,000,000 of capital investment in the Plan Area and should create, using a conservative estimate, 1,680 construction jobs during construction of the Development. A significant part of the Development will be commercial office, retail, restaurant and hotel uses, which will result in significant long-term job creation. A reasonable estimate of such full time equivalent jobs created is 520.

(e) The City and the County are also expected to realize additional tax receipts as a result of the Development. With respect to property taxes, the property is was publicly owned in 2018 and therefore has a base tax of zero. Transferring the

property to private ownership and the capital investment in developing the property will create incremental property tax revenue that would be applied as provided herein to pay for costs of developing the Garage Project. The capital investment in the development is approximately \$55,000,000 to \$70,000,000, resulting in an appraised value of approximately \$46,069,000. At current property tax rates at the capital investment amount alone, this appraised value will generate annual property tax revenues of \$533,802 after the tax appraisal of the completed Development.

(f) The new commercial and retail establishments within the Development will result in increased annual local sales tax revenues. The retail and restaurant and hotel uses within the Development are estimated to produce \$1,033,988 in sales taxes based on \$350/sf/year. The hotel is expected to produce additional sales and lodging tax revenue. With a 110-room hotel averaging \$200/room x 80% occupancy for 365 nights, the hotel would generate an additional \$626,340 in sales tax revenue. In addition, lodging taxes based on these numbers would produce an additional \$321,200 in taxes. Therefore, the City and County would realize approximately \$1,877,726 in additional local tax revenues annually from the Development.

## **5. Distribution of Property Taxes and Tax Increment Financing**

(a) Distribution of Taxes. In accordance with and subject to T.C.A. § 7-53-312(c) and T.C.A. § 9-23-1010 *et seq.* (the "Tax Increment Act"), real property taxes (excluding personal property taxes) imposed on the property located within the Plan Area will be allocated and distributed as provided in this subsection. The taxes assessed by the City and the County on the real property (excluding personal property taxes) within the Plan Area will be divided and distributed as follows:

(i) The portion of the real and personal property taxes payable with respect to the Plan Area equal to the year prior to the date of approval of this Economic Impact Plan (the "Base Tax Amount") was Zero and no/100 Dollars, since the Plan Area was owned by the City.

(ii) The "Dedicated Taxes" are defined in *Tennessee Code Annotated* § 9-23-101, *et. seq.* (the "TIF Uniformity Act"), as "that portion of property taxes, if any, designated by a taxing agency to pay debt service on the taxing agency's debt." "Taxing agency" is defined in the TIF Uniformity Act as "any county, city, town, metropolitan government or other public entity that levies property taxes on property within a plan area and that has approved the plan." The Dedicated Taxes will be allocated to and will be paid to the respective taxing agencies as taxes levied by such taxing agencies on all other property are paid. The excess of real and personal property taxes over the Base Tax Amount and the Dedicated Taxes (the "TIF Revenues") shall be allocated and, as collected, paid into a separate fund or funds of the Board, created to hold such payments until the TIF Revenues in the funds are to be applied (A) first, equally to reimbursing the City, County, and the Board for costs, including without limitation legal fees, of preparing, negotiating and adopting this Plan and the associated documents implementing the incentive hereunder until all such costs are fully paid

("Initiation Expenses"); (B) then, up to 1% of the TIF Revenues for the reimbursement of the actual administrative expenses of the City, County and Board for administering the Plan, include a reasonable allocation of overhead expenses ("Administrative Expenses"); and (C) thereafter, to Developer to pay for Eligible Costs within the Plan Area (the "TIF Incentive"). Calculations of TIF Revenues with respect to the Plan Area will be done on an aggregate basis as provided in Section 103(c) of the TIF Uniformity Act.

(b) Eligible Costs. As provided in a separate Funding Agreement to be entered into by and between the Board and the Developer, the TIF Incentive will be used only to reimburse the Developer for the design and other costs incurred to construct the Garage Project and related public infrastructure (the "Eligible Costs").

6. Public Infrastructure. "Public Infrastructure" is defined in Section 102(15) of the TIF Uniformity Act, and includes, without limitation, "publicly-owned or privately-owned parking lots, facilities or garages..." Consequently, the TIF Incentive is not subject to the written determination of the Tennessee Commissioner of Economic and Community Development or the Tennessee Comptroller.

7. Maximum Amount. The aggregate amount of the TIF Incentive for all Initiation Expenses, Administrative Expenses, and Eligible Costs will not in any event exceed \$6,000,000.00 ("TIF Maximum Amount").

8. Commencement Date. Pursuant to the Funding Agreement, the Developer shall agree to commence the Development (the "Commencement Date"), defined as the demolition of the buildings in the Plan Area (other than the church bell tower), by January 24, 2020 (the "Required Commencement Date"), subject to the Force Majeure provision of the Funding Agreement and to unforeseen delays in governmental approvals, provided that such events or delays are approved by the City Manager of the City of Murfreesboro (the "City Manager") or City of Murfreesboro City Council. If the Commencement Date does not occur by the Required Commencement Date, then this Plan shall expire, unless the Required Commencement Date is extended by written agreement of the Developer, the Board and the City Manager.

9. Time Period; Payments. The Available Increment, after deduction of the Initiation Expenses and the Administrative Fee, will be applied by the Board to the TIF Incentive beginning with the allocation of the Available Increment for the earlier of the calendar year in which the Garage Project, the hotel, office, and residential components of the Development are assessed following completion, or calendar year 2023 (the "Initial Allocation Year"). The term of the Funding Agreement and this Plan shall end (the "End of the Term"), and the payment of the Available Increment to the Company shall terminate upon the earlier of the payment of the TIF Maximum Amount, or upon the allocation of fifteen (15) annual payments of the Available Increment from and including the payment of the Available Increment for the Initial Allocation Year, after which time all property taxes will be collected by the City and County in the normal course. The City and County will allocate and pay the Available Increment to the Board no later than sixty (60) days after the date that taxes are paid, as to each of the City and the County for each tax year. Delinquent payments received by the City and the County will be allocated to the



Board, to the extent required no later than sixty (60) days of receipt by the City or County with interest to the extent provided in the TIF Uniformity Act.

**10. Default.** In the event of a default by the Developer under the Mixed-Use Development Agreement or the Funding Agreement, the TIF Incentive may be terminated by the City *or the Board*, in which case all property taxes will be collected by the City and County in the normal course.

**11. Debt Issuance.** The Board may borrow funds through the issuance and sale of notes, bonds or other obligations of the Board in one or more issuances, to pay the Initiation Expenses and the TIF Incentive, to the extent permitted by the Act. The Developer may be the bond or note holder. The Board may pledge all or a portion of the TIF Revenues allocated to the Board pursuant to this Plan to the payment of such notes, bonds or other obligations, including, without limitation, principal and interest thereon, provided that the payment of any interest thereon shall not increase the TIF Maximum Amount. In no event will the obligations issued by the Board be considered a debt or obligation of the City or the County in any manner whatsoever, and the source of the funds to satisfy the Board's payment obligations thereunder shall be limited solely to the TIF Revenues and shall otherwise be non-recourse to the Board. Any debt obligation of the Board may be refinanced by the Board at any time as permitted by the Act, and upon such refinancing, available tax increment revenues shall be applied to the payment of such refinancing debt to the extent such tax increment revenues were to be used to pay the debt that is being refinanced. Any and all documents to be entered into by the Board with respect to the foregoing shall be in form and substance acceptable to the Board, in its sole discretion, and subject to the Developer completing the Board's application form and payment of its normal application fee.

**12. Finding of Economic Benefit.** The Board, the City and the County, by the adoption of this Plan, find that the Garage Project, which is making the provision of the remaining portions of the Development, including the hotel possible, is within an area that could provide substantial sources of tax revenues and economic activity to the City and the County, and find that the use of the TIF Revenues, as described herein, is in furtherance of promoting economic development in the City and the County, and that the use of the TIF Revenues as provided herein will develop trade and commerce in and adjacent to the City and the County, will contribute to the general welfare, and will alleviate conditions of unemployment; and that the construction and equipping of the Garage Project will be necessary and advantageous to the Board in furthering the purposes of the Act.

**13. Approval Process.**

**(a)** Pursuant to T.C.A. § 7-53-312, the process for the approval of this Plan is as follows:

**(b)** The Board shall hold a public hearing on this Plan after publishing notice of such hearing in a newspaper of general circulation in the City at least two weeks prior to the date of the public hearing. The notice must include the time, place and purpose of the hearing as well as notice of how a map of the subject area may be viewed

by the public. Following such public hearing, the Board shall submit the Economic Impact Plan to the City and County for their approval.

(c) The governing bodies of both the City and the County must approve this Plan for this Plan to be effective to both the City and the County. This Plan may be approved by resolution of the City Council and County Commission, whether or not the local charter provisions of the City or County provide otherwise. If the governing body of either the City or the County fails to approve this Plan, this Plan will not become effective. If either the City or County make any changes to this Plan in connection with their approval hereof, such changes must be approved by the Board following a public hearing related thereto, and such changes must also be approved by the City or County, as applicable.

(d) Once the governing body of the City and the County has approved this Plan, the Plan and related documents must be filed with the local taxing officials and the Comptroller of the State. Annual statements of incremental tax revenues allocated to the Board shall be filed with the State Board of Equalization. The Board will also comply with all other requirements of the Tax Increment Act and other applicable laws.

In witness whereof the parties hereto have entered into this Agreement as of the Effective Date.

**APPROVED:**

ATTEST:

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE RUTHERFORD COUNTY**

\_\_\_\_\_  
Secretary

(SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman

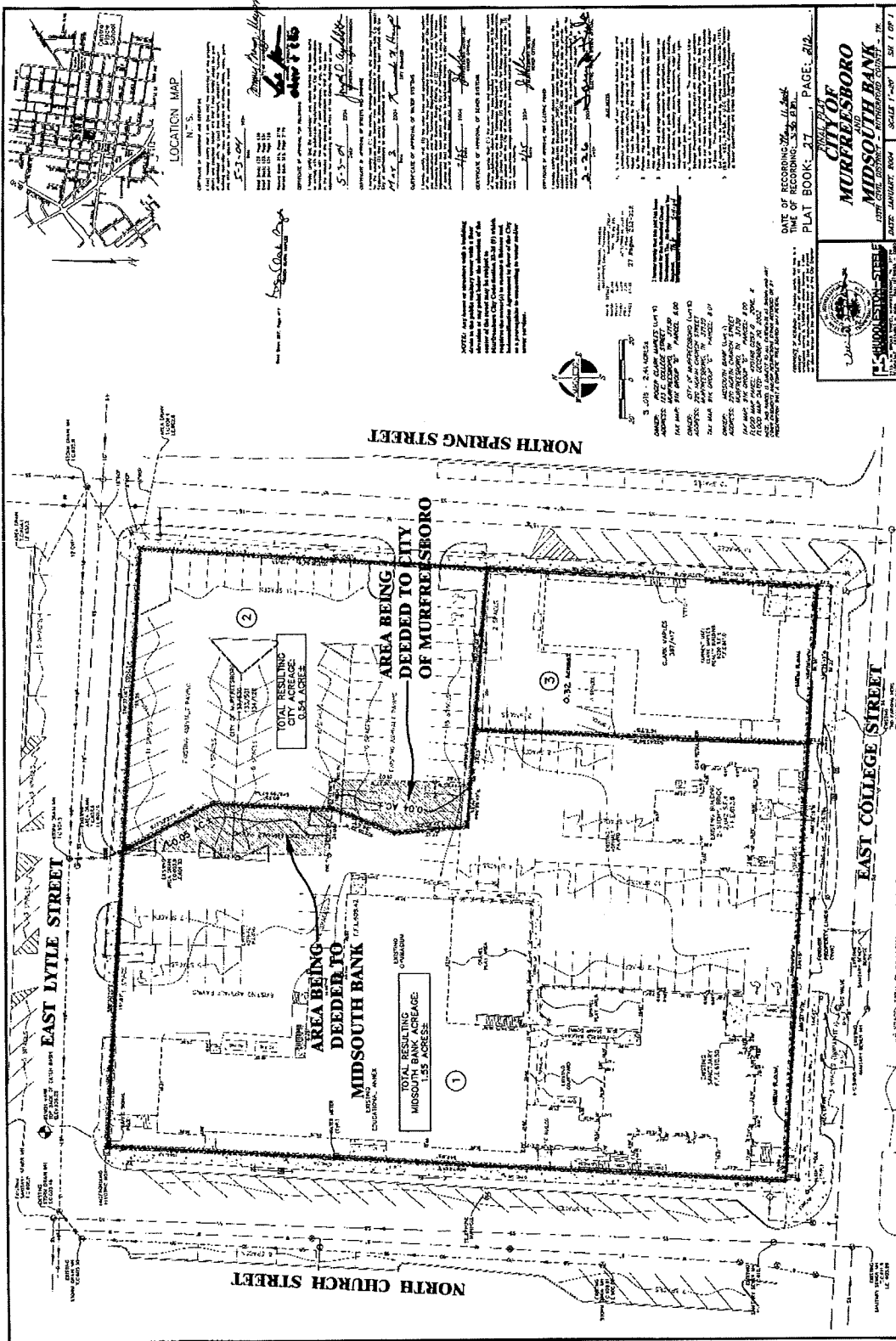
**APPROVED:**  
**CITY OF MURFREESBORO, TENNESSEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
  
Date: \_\_\_\_\_

**APPROVED:**  
**RUTHERFORD COUNTY, TENNESSEE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
  
Date: \_\_\_\_\_

# EXHIBIT A



# COUNCIL COMMUNICATION

**Meeting Date: 9/11/2019**

**Item Title:** Emergency Sewer Repair to the Southwest Sewer Interceptor

**Department:** Water Resources

**Presented by:** Darren Gore

**Requested Council Action:**

Ordinance ☐  
Resolution ☐  
Motion ☒  
Direction ☐  
Information ☐

## Summary

Approve additional costs associated with a collapsed 54" sanitary sewer interceptor.

## Staff Recommendation

Approve additional emergency remedial expenditures in the amount of \$405,978.12 for contracted services to repair 240 feet of a 25-foot deep section of 54" sanitary sewer along Molloy Lane near Bridge Avenue (exhibit attached).

## Background Information

The Southwest Interceptor of the City's sanitary sewer system has incurred an obstruction or pipe collapse. The initial remediation was anticipated to be a 20-foot point repair in the amount of \$251,000. Staff with the aid of TTL, Inc, a geotechnical engineering consultant, has determined that the entire 240-foot length of sewer is in need of replacement due to the pipe deflection of greater than 5%.

The original versus added costs and associated time are tabulated below:

	Footage of Repair (LF)	Time (Days)	Costs	Total Costs
Original Bypass Pumping		15	\$38,000.00	
Original Agreement Labor & Materials (Repair of DIP)	20	15	\$231,053.00	
<b>Subtotal of Original Repair</b>				<b>\$251,053.00</b>
Credit for 54" DIP (Repair Sleeves Clamps are Non-return Items)				<b>-\$9,250.00</b>
Additional Bypass Pumping		30	\$76,000.00	
Additional Replacement Cost to Complete (Over Original Agreement)	240	30	\$329,978.12	
<b>Subtotal of Additional Replacement</b>				<b>\$405,978.12</b>
<b>Total Replacement Costs</b>				<b>\$647,781.12</b>

**Council Priorities Served***Safe and Livable Neighborhoods*

Immediate repair of the waste water system serves to protect the health, safety, and general welfare of the public.

*Excellent Services with a Focus on Customer Service*

Maintaining sewer service to the public and mitigating overflows protects public health and is the highest priority of the Department.

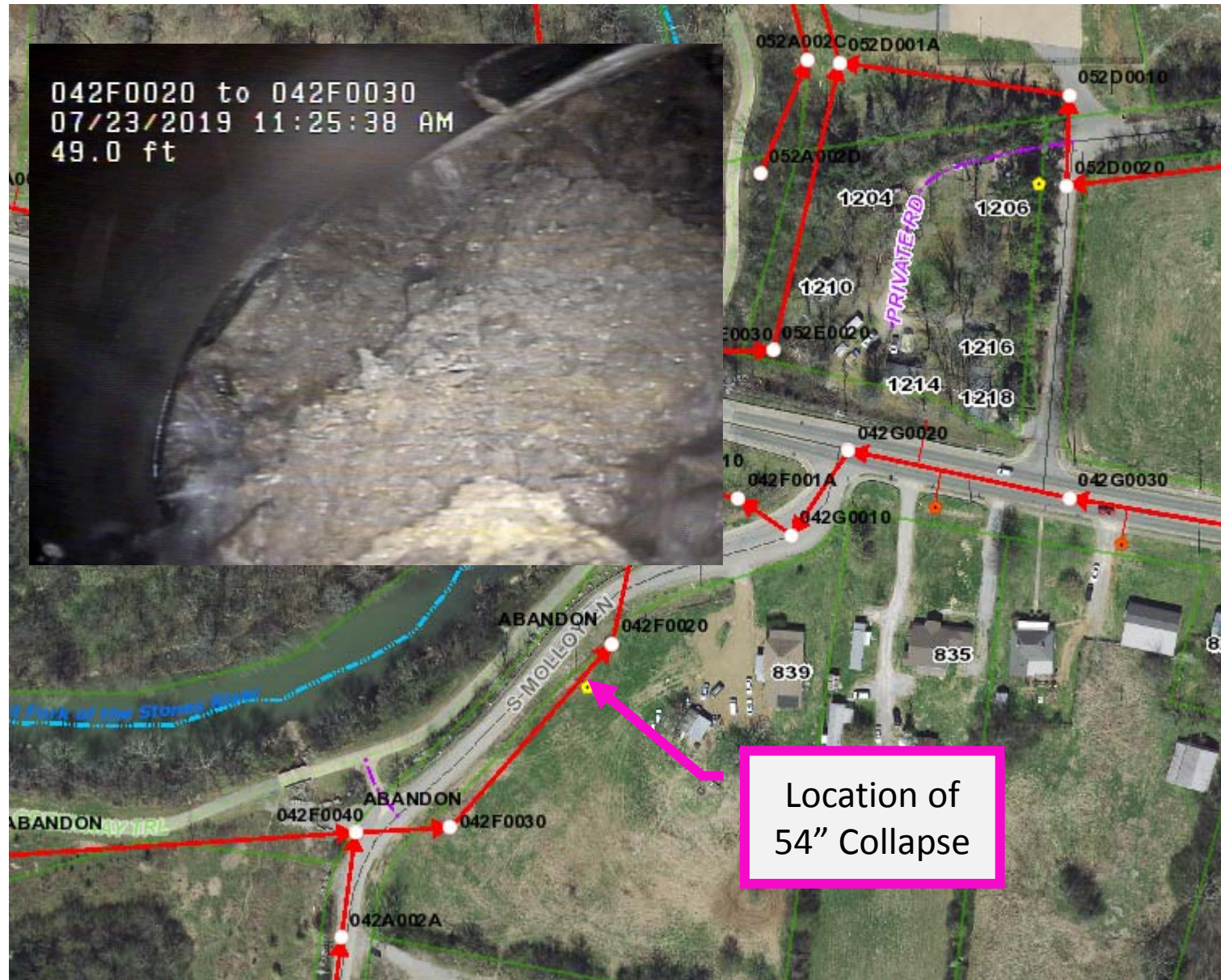
**Fiscal Impact**

The Department has ample working capital reserves to perform the work with cash on hand. The full costs to perform the work are expected not to exceed \$650,000.

**Attachments**

Exhibit showing location and damage to the referenced sewer section

# 54-in Sewer Collapse Emergency Repair



# **COUNCIL COMMUNICATION**

**Meeting Date: 9/11/2019**

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**Item Title:** Review of Sanitary Sewer Allocation Ordinance  
**Department:** Water Resources Department  
**Presented by:** Darren Gore

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## **Summary**

Review a draft sanitary sewer allocation ordinance the purpose of which is to protect the long-term sustainability of the sewer service and provide for future land development within the City's urban growth boundary.

## **Background Information**

The City's growth during the last 20 years has dramatically increased the demand on the wastewater collection system. This increase is largely due to permitting development densities greater than originally projected. Two options were developed to address growth and provide capacity for future growth. These options reset the permitted densities to originally master planned levels.

The two options are outlined in the Attachment 1 hereto. Note that Option 2 allows higher density in the category of commercial and medium density residential by decreasing the reserve amount from 10% to 5%.

The proposed ordinance can be summarized as follows:

- City Council sets by resolution the sewer capacity available to properties based on actual or projected land use
- Every other year, Board and Council review existing allocation allowances and adopt any necessary changes/revisions
- Application for allocation accompanies a proposed development's request for a "will serve" letter (via MWRD's pre-existing policy)
- A process exists to petition the City Council for additional allowance above pre-set allocation limits.
- At the time of application and "will serve" request, a 5% fee of the overall sewer connection fees and special sewer assessment fees are due for vesting of sewer rights for a 24-month period.
- Additional 5% will retain vesting rights every 2-years up to 10-years.
- Vested rights are not transferrable
- All fees will be credited to the total fees associated with the project.
- Fees are not refundable in the event the project is not constructed.



## **Council Priorities Served**

### *Safe and Livable Neighborhoods*

Promote and protect public health and safety by properly collecting and treating sanitary sewer.

### *Strong and Sustainable Financial and Economic Health*

Enhance the economy by establishing reasonable, orderly, equitable and effective means to allocate wastewater collection capacity.

### *Excellent Services with a Focus on Customer Service*

Assist in uniform and balanced future development to serve the needs of the community.

## **Fiscal Impacts**

Allocating sewer capacity to developments with less density may have an impact on MWRD's connection fees (a.k.a., system capacity buy-in fees) and associated reserves; however, the City's Urban Growth Boundary (UGB) has much more area than can be served by MWRD's current WRRF capacity. Based on staff's interview conducted with the City of Buford, GA, Buford experienced no fiscal impact in implementing their sewer allocation ordinance in the year 2000. The City of Buford is inside of Gwinnett County, GA which had a population of 596,000 in 2000 compared to 920,000 in 2017. The City of Buford's population increased 65% between 2000 and 2017.

## **Attachments:**

1. Summary of Sewer Allocation by Future Land Use Calculation
2. Draft Sewer Capacity Allocation Ordinance and accompanying resolution

## SEWER ALLOCATION BY FUTURE LAND USE CALCULATION

### OPTION 1

Land Use Category	<i>sfu per acre</i>	<i>gpd per acre</i>	% total	sfu/ac	
Commercial	2.0	520	35.4%	0.71	
Industrial	4.0	1040	2.4%	0.10	
Park	0.5	130	3.5%	0.02	
Low Density Residential	3.0	780	44.0%	1.32	
Medium Density Residential	5.0	1300	11.0%	0.55	
High Density Residential	9.0	2340	3.6%	0.32	
				3.02	90% Capacity
				0.30	10% Reserve
				<b>3.32</b>	<b>TOTAL</b>

### Option 2

Land Use Category	<i>sfu per acre</i>	<i>gpd per acre</i>	% total	sfu/ac	
Commercial	2.5	650	35.0%	0.88	
Industrial	4.0	1040	2.5%	0.10	
Park	0.5	130	3.5%	0.02	
Low Density Residential	3.0	780	40.0%	1.20	
Medium Density Residential	7.0	1820	11.0%	0.77	
High Density Residential	9.0	2340	3.0%	0.27	
				3.23	95% Capacity
				0.16	5% Reserve
				<b>3.39</b>	<b>TOTAL</b>

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**ORDINANCE 19-O-XX** amending the Murfreesboro City Code, Chapter 33, Water Resources, establishing Sewer Capacity Allocation regulations.

**WHEREAS**, the City has developed a wastewater collection, treatment, and disposal system that is critical to the health, safety, and general welfare of the public; and

**WHEREAS**, in 2017, the City expanded a portion of its wastewater system, the Water Resource Recovery Facility, at a cost of approximately \$\_\_\_\_\_million adding approximately 8 million gallons per day (MGD) of wastewater treatment capacity to the City's Sewer System; and

**WHEREAS**, notwithstanding that expansion, the City's economic development and growth in population over the last 20 years has dramatically increased the demands on the City's wastewater system and at this time the City's projected ability to further expand its wastewater treatment capacity, which would be necessary to support unrestricted future land use in the City's urban growth boundary, is materially restrained by federal and state regulations and other variables beyond the City's control; and

**WHEREAS**, the capacity of the City's wastewater collection infrastructure varies across the basins and sub-basins that make up the City's entire wastewater system;

**WHEREAS**, notwithstanding the limitation on expansion of wastewater collection and treatment capabilities, the City's population growth is projected to continue and encouraging economic development within the City benefits residents is instrumental to increasing new employment opportunities, enhancing conveniently available services, and lowering tax obligations directly imposed upon individuals; and

**WHEREAS**, in order to balance the needs of beneficial economic development with the increases in residential development the City must ensure that its sewer system capacity remains sufficient to support all aspects of a growing community and allocated this limited capacity in a manner deemed in the best interests and general welfare of the City's citizens; and

**WHEREAS**, the City of Murfreesboro Water Resources Board voted on August 26, 2019, to recommend to the Murfreesboro City Council that it adopt the regulations set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:**

**SECTION 1.** Chapter 33, Article V., Water Conservation, of the Murfreesboro City Code, as of the first reading of this Ordinance, is re-designated as Chapter 33, Article VI, Water Conservation.

**SECTION 2.** Chapter 33, Article VI., Sanitary Sewer Special Assessment

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Districts, of the Murfreesboro City Code, as of the first reading of this Ordinance, is re-designated as Chapter 33, Article VII, Sanitary Sewer Special Assessment Districts.

SECTION 3. Chapter 33, Article VII., Repurified Water, of the Murfreesboro City Code, as of the first reading of this Ordinance, is re-designated Chapter 33, Article VIII, Repurified Water.

SECTION 4. Chapter 33, Article VIII., Human Excrement Disposal, of the Murfreesboro City Code, as of the first reading of this Ordinance, is re-designated Chapter 33, Article IX, Human Excrement Disposal.

SECTION 5. Chapter 33, Article IV., Sewer Connection Service and Tapping Charges, of the Murfreesboro City Code, is hereby amended by deleting “Sections 33-53—33-100 Reserved” and in lieu thereof inserting “Sections 33-53—33-69 Reserved.”

SECTION 6. Chapter 33, of the Murfreesboro City Code, is hereby amended adding a new Article V, to include Sections 33-70 through 33-100 and titled “Sewer Capacity Allocation.” This new Article V shall provide as follows:

## **ARTICLE V. SEWER CAPACITY ALLOCATION**

### **SECTION 33-70            PURPOSES.**

The purposes of the regulations contained in this Article are to promote and protect public health and safety; enhance the City’s economy by establishing reasonable, orderly, equitable and effective means to allocate wastewater collection capacity; and assist in uniform and balanced future development to serve the needs of the community and the City’s tax digest.

### **SECTION 33-71    SHORT TITLE.**

This Article may be cited as the Sewer Capacity Allocation Ordinance.

### **SECTION 33-72    APPLICABILITY.**

This Article shall control the approval of new sewer connections to the extent specified herein. To the extent its provisions conflict with any other provision of the Murfreesboro City Code or any policy of the Water Resources Department, this Article shall supersede such other provisions and control. To the extent the provisions of this Article do not conflict with or otherwise supersede other provisions of the Murfreesboro City Code or any policy of the Water Resources Department, those provisions and policies remain in full force and effect.

### **SECTION 33-73    DEFINITIONS.**

For purposes of this Article, the following words shall have the meanings ascribed to them in this section unless a different meaning is clearly intended from the context:

Available Sewer Capacity means the amount of sewer capacity determined by the Water Resources Department to be available to serve new development projects in accordance with this Article.

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Average Daily Usage means a mathematical expression that takes the total volume of water used or proposed to be used during a specified period of time divided by the number of days in that period of time, typically express in terms of million gallons per day (MGD) or gallons per day (gpd).

Capacity means the amount of sewer flow per time that may be handled by the City's wastewater treatment, pumping, and collection system, or any component, basin, sub-basin, or district of such system.

Centralized Wastewater Treatment Facility means the Sinking Creek Treatment Plant operating under National Pollutant Discharge Elimination System (NPDES) permit number TN0022586.

Owner/Developer means the legal owner of a property on which a project is proposed or any person, legal entity, or governmental agency proposing a project on a parcel of property and having financial responsibility for the proposed project.

Peak-to-average ratio means the ratio of the maximum wastewater discharge rate to the monthly average daily discharge rate.

Project means: (1) any proposed construction of a new building, facility, or group of buildings and/or facilities requiring one or more new water meters or new or larger connections to the City's Sewer System; or (2) any proposed renovation of an existing building or facility that requires a new water meter or new or larger connections to the City's Sewer System.

Sewer-capacity-allocation Resolution means a resolution adopted by City Council as provided in Section 33-75(A).

Sewer System means the City's wastewater treatment, pumping, and collection system.

Will-serve Letter means a letter issued by the City of Murfreesboro Water Resources Department to an owner or developer commitment that the City will provide water and/or sewer service to a particular property, subject to the fees and conditions, if any, set forth in the letter or applicable law and Department policies.

## **SECTION 33-75 AVAILABLE WASTEWATER COLLECTION CAPACITY; DETERMINATION, REPORTING AND TRACKING.**

(A) **Determination of available capacity.** The Water Resources Director will determine the total amount of available wastewater collection capacity within each of the Sewer System's basins, sub-basins, and sewer districts. This determination shall evaluate the capacity of the Sewer System's collection system, including sewer mains, pumping stations, and other collection related facilities.

(B) **Denial of sewer service where wastewater collection capacity.** If in the opinion the of Water Resources Director the wastewater collection capacity in the basin, sub-basin, or sewer in which a proposed Project is located is insufficient to serve the Project, the Water Resources Director may deny an Owner's or Developer's application for sewer service for the Project.

(C) **Appeal of denial of sewer service.** An Owner or Developer whose application for sewer service for a Project has been denied by the Water Resources Director may appeal that decision to the Water Resources Board. The Water Resources Board shall vacate the Water Resources Director's decision if and only if the Board finds that the Director's decision was made in

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an arbitrary or discriminatory manner, was not supported by material evidence, or was inconsistent with established City policy. Upon vacating the Director's decision, the Board may either remand the matter for reconsideration by the Director or reverse the Director's finding that there is insufficient collection capacity to serve the Project.

## **SECTION 33-75 AVAILABLE WATSEWATER TREATMENT CAPACITY; DETERMINATION, REPORTING AND TRACKING.**

- (A) **Determination of available capacity.** The Water Resources Director will determine the total amount of sewer capacity available for allocation purposes, taking into account the existing (approved or constructed) development projects in the City. This determination shall evaluate the capacity of all treatment facilities used by the City as well as its sewer mains, pumping stations, and other sewer facilities. In addition to determining the system's overall capacity available for allocation, the Water Resources Director may determine the amount of sewer capacity available for allocation within individual basins, sub-basins, and sewer districts.
- (B) **Bi-Annual Report.** At least once every two years, the Water Resources Department will present a report on the sewer system's capacity ("Bi-Annual Report") to the Water Resources Board and, after approval by the Board, to the City Council.
- (C) **Tracking.** The Water Resources department will track the allocation of sewer capacity and will make allocation information available to the public.

## **SECTION 33-74 MAXIMUM DAILY WASTEWATER GENERATION ALLOWANCE.**

- (A) City Council shall have the authority to allocate, by resolution, the sewer capacity of the City's Sewer System among properties located within the City's corporate limits and properties currently located outside the City's corporate limits that are served or potentially capable of being served by the City's Sewer System. Such allocation shall be made by assigning a maximum daily wastewater generation allowance to each property based on the actual or projected land use of the property. Based on the recommendation of the Water Resources Board, City Council, in its discretion, may establish maximum daily waster generation allowances applicable to all areas served or potentially served by the City's Sewer System or establish separate allowances that differ in amount for the sewer system's various basins, sub-basins, and/or districts.
- (B) For purposes of allocating the City's sewer capacity, a property's actual or projected land use shall be based on either the property's current zoning or the land use of the property indicated on the City's most recently adopted or amended Future Land Use Plan. In the event of a conflict between the property's current zoning and the land use indicated on the Future Land Use Plan, the property use shall be deemed to be the use that would provide the higher maximum daily wastewater generation allowance. Properties not located within the City's corporate limits as of the effective date of a sewer-capacity-allocation resolution and those properties outside the corporate limits that are not served by the City's Sewer System as of the effective date of a sewer-capacity-allocation resolution shall be assigned a maximum daily wastewater generation allowance of zero gallons per acre.
- (C) Projects approved by the City after the effective date of a sewer-capacity-allocation resolution shall maintain an average wastewater generation at or below the maximum daily wastewater generation allowance for the

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development's land-use category established in the sewer-capacity-allocation resolution.

- (D) At least once every two years, City Council shall review the existing allocation of the City's Sewer System's capacity and the established maximum daily wastewater generation allowances and adopt any changes to the allocation and/or allowances that are necessary and appropriate to fulfill the purpose and intent of the Sewer Capacity Allocation Ordinance. In adopting changes to the allocation and/or allowances, City Council may consider the recommendations presented by the Water Resources Department in its Bi-annual Report, the recommendations of the City Manager, and other factors relevant to fulfilling the purpose and intent of the Sewer Capacity Allocation Ordinance.

## **SECTION 33-77 DETERMINATION OF DAILY AVERAGE USAGE.**

The water-meter readings by the Water Resources Department (or the Consolidated Utility District of Rutherford County, as applicable) shall be determinative and govern daily average usage. Nothing herein, however, shall prevent the developer from installing and maintaining a meter, provided that such meter is of a type approved by the Water Resources Department and measures water consumed on the property and not returned to the City's Sewer System. Annual calibration of privately installed meters by an independent entity shall be part of the property owner's ongoing responsibility under this Article.

## **SECTION 33-78 APPLICATION FOR ALLOCATION.**

An owner or developer of a project shall apply for a sewer allocation at the time the owner requests a "will serve" letter from the Water Resources Department. The application shall include: (a) any documentation necessary to demonstrate the amount of the request allocation; and (b) the proposed land-use category for the project. The Water Resources Department may establish additional application policies and procedures reasonably necessary to achieve the purpose and intent of the Sewer Capacity Allocation Ordinance.

## **SECTION 33-79 COMPLIANCE.**

- (A) After the City has issued a certificate of occupancy for a project, the Water Resources Department shall monitor the water consumption at or within the project for such time as is reasonably necessary under the circumstances to establish the normal water usage at or within the project.
- (B) In the event the daily average usage is greater than the maximum daily wastewater generation allowance established for the project, the project's owner shall be assessed an additional service fee for exceeding the limits established in the sewer-capacity-allocation resolution then in effect. This additional service fee shall be calculated and assessed, along with any applicable administrative fees, in accordance with the sewer-capacity-allocation resolution then in effect.
- (C) An additional fee may be assessed, as provided by the sewer-capacity-allocation resolution then in effect, if the peak-to-average ratio exceeds 3.0.

## **SECTION 33-80 PETITION FOR ADDITIONAL ALLOWANCE.**

- (A) If the Water Resources Department determines that a project proposed by an applicant for sewer service is likely to exceed the maximum daily wastewater generation allowance established for the proposed land use and the City's Sewer System capacity is sufficient to serve the project, the applicant may petition the City for a waiver of the applicable limits. Upon



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review by City staff, the application and staff recommendation shall be presented to the City Council to approve or deny the request for an additional allowance.

- (B) In evaluating a petition, City Council, Water Resources Board, and staff may consider the following factors:
- (1) The current performance of the City's wastewater treatment facilities;
  - (2) The character and nature of wastewater that is likely to be discharged from the project relative to any applicable limits or restrictions established by federal, state, or local law;
  - (3) The current daily flow at the City's treatment facility that would receive the project's wastewater;
  - (4) The impact of additional flow on the receiving treatment plant's ability to achieve NPDES permit limits; and
  - (5) The available hydraulic capacity of the City's sewer lines and other sewer system components.
- (C) The City Council may authorize an additional daily wastewater generation allowance to a project provided:
- (1) The technical factors listed set forth in subsection (B), either individually or collectively, do not militate against the approval of the requested allowance;
  - (2) Sufficient sewer capacity exists within the system and within the basin or sub-basin in which the project is located;
  - (3) The proposed project is, in the opinion of the City Council, consistent with the City's adopted land use plans and policies concerning growth and development; and
  - (4) The additional daily wastewater generation allowance granted by the City is not greater than ten percent (10%) of the total available capacity of the basin or sub-basin in which the project is located.
- Provided the application satisfies these requirements, the City Council, in deciding whether to authorize an additional allowance, may consider any other factor identified in the Council's deliberations related to whether a particular application promotes or undermines public health or safety or the general welfare of the City and its residents.
- (D) The City Council may condition the approval of an additional allowance on the owner or developer incorporating certain public infrastructure improvements into the project's site plan.
- (E) In the event City Council grants an additional allowance, the applicant shall remit, as provided in Section 33-50(a)(2), a one-time fee equal to \$2,550.00 for each 260 gallons per day of additional volume over the maximum daily wastewater generation allowance applicable to the project plus any applicable special sanitary sewer assessment fees.

## **SECTION 33-81**

### **VESTING OF SEWER-CAPACITY ALLOCATION AND OTHER SEWER-SERVICE RIGHTS.**

- (A) **Rights Vest to Property.** Any vesting of a sewer-capacity allocation or other sewer-service rights (collectively, "sewer-service rights") obtained through a successful application for sewer service vests to the property itself for the specific project identified in the application rather to the applicant personally. Any change in ownership or change in legal rights subsequent to approval shall not affect the vesting of the sewer-service rights and the time periods described herein.
- (B) **Rights Not Transferrable.** Sewer-service rights may not be transferred from the property designated in an application for service to a different piece of property under any circumstances.
- (C) **Initial Vesting Period.** No sewer-service rights shall vest in a property until such allocation is approved pursuant to this article and the applicant has paid at least five percent (5%) of the overall water and sewer connection



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fees required for the requested connection(s). The initial sewer-service rights vested in a property shall expire and lapse for all development and construction on the property twenty-four (24) months after the allocation's approval, unless:

(1) In the case of a project where approval of a development plan is not required under the City Code, including the City's Zoning Ordinance, the owner or developer obtains a building permit for the project within the initial vesting period; or

(2) In the case of project where approval of a development plan is required under the City Code, including the City's Zoning Ordinance, the owner or developer obtains the required approval(s) within the initial vesting period; or

(3) The owner or developer pays an additional five percent (5%) of the overall water and sewer connection fees for the project within the initial vesting period to extend initial vesting period an additional twenty-four (24) months. An owner or developer may renew the initial vesting period four times, for a total initial vesting period of ten years.

Any payments made to initiate or extend the initial vesting period shall be credited to the total water and sewer connection fees for the project and are nonrefundable. Extension of the initial vesting period may be approved administratively by the Water Resources Director upon receipt of the additional payment.

(D) **Vested Property Rights.** Sewer-service rights shall vest as provided in T.C.A. § 13-4-310 and City of Murfreesboro Resolutions 14-R-28 and 15-R-05 upon the approval by the City, in accordance with applicable state law and the City Code, of: (1) a preliminary development plan; (2) a final development plan where no preliminary development plan is required by ordinance; or (3) a building permit allowing construction of a building where there is no need for prior approval of a preliminary development plan for the property on which that building will be constructed; provided, however, no sewer-service rights shall vest in the property under this subsection (D) unless or until the owner or applicant has first successfully applied for sewer-service rights in accordance with this Article.

(E) **Expiration of Vesting.** Without regard to the payment of fees, renewals, or term of vesting, sewer-service rights vested in a property pursuant to subsection (D) shall expire immediately:

(1) if a right vested as provided in T.C.A. § 13-4-310 expires in accordance with the vesting periods set forth in that statute; or

(2) it becomes necessary to terminate or modify the vested rights as permitted by T.C.A. §13-4-310.

**SECTIONS 33-82—33-100**

**RESERVED.”**

**SECTION 6.** That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

\_\_\_\_\_  
Shane McFarland, Mayor

1<sup>st</sup> reading \_\_\_\_\_

2<sup>nd</sup> reading \_\_\_\_\_

***DRAFT***

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Melissa B. Wright  
City Recorder

\_\_\_\_\_  
Adam F. Tucker  
City Attorney

SEAL

**RESOLUTION 19-R-xx. 2019 Sewer-Capacity Allocation Resolution.**

**WHEREAS**, Section 33-75(A) of the Murfreesboro City Code authorizes City Council, by resolution, to allocate the sewer capacity of the City's Sewer System among properties located within the City's corporate limits and properties currently located outside the City's corporate limits that are served or could potentially be served by the City's Sewer System; and

**WHEREAS**, such allocations shall be made by assigning a maximum daily wastewater generation allowance to each property based on the actual or projected land use of the property; and,

**WHEREAS**, Section 33-73 defines "Project" as (1) any proposed construction of a new building, facility, or group of buildings and/or facilities requiring one or more new water meters or new or larger connections to the City's Sewer System; or (2) any proposed renovation of an existing building or facility that requires a new water meter or new or larger connections to the City's Sewer System; and

**WHEREAS**, except as otherwise provided in Section 33-80 of the City Code, Section 33-75(C) requires all Projects approved by the City after the effective date of this resolution maintain an average wastewater generation level at or below the maximum daily wastewater generation allowance for the project's land use category established in the resolution; and

**WHEREAS**, the City Council has determined that the maximum daily wastewater generation allowances established by this resolution balance the needs of beneficial economic development with the increase in residential development in the City; and

**WHEREAS**, the City Council further finds that the maximum daily wastewater generation allowances established by this resolution will help ensure that the City's sewer-system capacity remains sufficient to support all aspects of a growing community and allocates this limited capacity in a manner that is in the best interests and general welfare of the City's citizens.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:**

**SECTION 1.** As of the effective date of this resolution, each property located within the City's corporate limits and each property located outside the City's corporate limits that are currently served by the City's Sewer System shall be assigned the maximum daily wastewater generation allowance (measured in gallons per day per acre) set forth in **Table 1** that corresponds to the individual property's land-use classification. Except as otherwise provided in Section 33-80 of the City Code, all Projects approved by the City after the effective date of this resolution shall maintain an average wastewater generation at or below the maximum daily wastewater generation allowance set forth in **Table 1** for the Project's land-use category. The

maximum allowances set forth in **Table 1** shall not apply to properties currently receiving sewer service as of the effective date of this resolution or to Projects approved by the City as of the effective date of this resolution, unless either: (1) an owner or developer applies to the City for approval of a new building, facility, or group of buildings and/or facilities on the property that will require one or more new water meters or a new or larger connection to the City’s Sewer System; or (2) an owner or developer seeks applies to the City for the approval of a renovation of an existing building or facility will require one or more new water meters or a new or larger connection to the City’s Sewer System.

**TABLE 1**  
**Maximum Daily Wastewater Generation Allowance**

Land-Use Classification	Included Zoning Classifications	Maximum Daily Allowance (gallons per acre per day)	Single-Family-Unit Equivalents (SFUE) per Acre
Commercial	CM-R, CM, CM-RS-8, OG-R, OG, CL, CF, CH, and PCD	650	2.5
Industrial	G-I, H-I, L-I,	1,040	4.0
Low-Density Residential	RS-15, RS-12, RS-10, and PRD (if average lot size ≥ 10,000 sq. ft.)	780	3.0
Medium-Density Residential	RS-8, RS-6, RS-4, R-D, and PRD (if average lot size < 10,000 sq. ft.)	1,820	7.0
High-Density Residential	RM-12, RM-16, RS-A, R-MO and CU (dormitories only)	2,340	9.0
Mixed-Use	MU and PUD	1,040	4.0
College and University	CU (except dormitories)	880	3.4
Parks	P	130	0.5
Central Business District, City Core Overlay, and Gateway Overlay	CBD, CCO, GDO	2,340	9.0

**SECTION 2.** This resolution shall take effect ninety (90) days after it is approved by City Council, the public welfare and the welfare of the City requiring it.

Passed: \_\_\_\_\_  
Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

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Melissa B. Wright  
City Recorder

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Adam F. Tucker  
City Attorney

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DRAFT

# COUNCIL COMMUNICATION

**Meeting Date:** 9/11/19

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**Item Title:** Brush, Limb and Yard Waste Bid Review  
**Department:** Solid Waste Department  
**Presented by:** Darren Gore

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## Summary

Review of current level of service (LOS) for brush, limb and yard waste pickup using internal forces and review of bid received by Rollins Excavating Company, LLC acting as an outside City contractor to increase LOS.

## Background Information

The current solid waste workforce has not met City Council or the public's expectations regarding level of service for picking up brush, limb and yard waste. The City has employed significant overtime not only in the solid waste department but the streets and water resources departments to enhance the LOS in this area. Given the challenges associated with recruiting and developing additional personnel to enhance the LOS, staff advertised a bid to solicit an outside contractor to supplement the City's deficiencies in brush, limb and yard waste curbside pickup. The table below summarizes the options staff has developed to increase efficiencies and effectiveness for curbside brush, limb and yard waste services:

Option	Summary	Annual Costs	Weakness
1	Continue utilizing overtime in Solid Waste, Streets and Water Resources Departments	\$704,000	Service delivery three times every other month vs twice a month. Lower LOS during peak season.
2	Staff back up to 2009 levels	\$1,127,000	Inability to recruit and develop 37% increase in workforce
3	Subcontract services to private contractor	\$1,152,000	Most expensive option

Staff will present the various option as associated weaknesses to develop a path forward to meet City Council's and the public's expectations.

## Council Priorities Served

*Safe and Livable Neighborhoods*

Proper retrieval of brush and limbs protects the storm sewer system capacity

and aquatic health of streams and rivers.

*Excellent Services with a Focus on Customer Service*

Increasing the level of service with brush, limb and yard waste curbside pick-up resets public confidence that the City is dedicated to providing excellent services.

**Fiscal Impacts**

Fiscal impact ranges from \$704,000 to \$1,152,000. These costs equate to approximately \$1.40 to \$2.30 per month per residence.

# COUNCIL COMMUNICATION

**Meeting Date: 09/11/2019**

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**Item Title:** Economic Development Program Update

**Department:** Administration

**Presented by:** Craig Tindall, City Manager

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## **Summary**

Overview of the development of the City's economic development program.

## **Background Information**

Development of the City's economic development program is instrumental to the City's future. In the past, the City has relied solely upon outside agencies to identify economic development opportunities. The City is at a point in which guiding its economic development will be most beneficial.

In order to capitalize on opportunities, the City plan will formalize internal cross-functional capabilities, *e.g.*, directly involve planning, engineering, finance, and information technologies. The program will identify the assets available to the City to attract opportunities and secure successful projects. It will formulate a target marketing approach that incorporates a City-identified brand and allow for progress assessment that will evolve the program over time and respond to market conditions.

This presentation will be an update to the activity currently underway and provide Council with a roadmap for further activity.

## **Council Priorities Served**

*Strong and Sustainable Financial and Economic Health*

A strong economic development program is crucial to the City's future financial health and contributes to the overall economic condition of the community.